

Ordinance No: 15-60
Zoning Text Amendment No: 05-08
Concerning: Minimum Lot Area & Transfer
Of Density in CBD Zones
Draft No. & Date: 3 – 11/01/05
Introduced: May 26, 2005
Public Hearing: July 12, 2005; 7:30 p.m.
Adopted: January 31, 2006
Effective: February 20, 2006

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: District Council at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- reducing the minimum lot area requirement in the CBD Zones under the optional method of development to 18,000 square feet; **[[and]]**
- allowing a minimum lot area less than 18,000 square feet, under certain circumstances,
- permitting transfer of density **[[in Housing Resource Areas]]** within a Density Transfer Area as designated in the relevant master or sector plan; and ,
- generally amending provisions pertaining to a density transfer.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-6
Section 59-C-6.23

“CENTRAL BUSINESS DISTRICT ZONES”
“Development standards”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

Underlining indicates text that is added to existing laws by the original text amendment.

***[Single boldface brackets]** indicate text that is deleted from existing law by the original text amendment.*

Double underlining indicates text that is added to the text amendment by amendment.

***[[Double boldface brackets]]** indicate text that is deleted from the text amendment by amendment.*

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) No. 05-08 was introduced on May 26, 2005 for the purpose of reducing the minimum lot area requirement in the CBD Zones under the optional method of development to 18,000 square feet; allowing a minimum lot area less than 18,000 square feet, under certain circumstances; permitting transfer of density within a Density Transfer Area as designated in the relevant master or sector plan; and generally amending provisions pertaining to a density transfer.

The Montgomery County Planning Board in its report to the Council recommended that Zoning Text Amendment 05-08 be approved, with revisions.

The County Council held a public hearing on July 12, 2005 to receive testimony concerning the proposal. ZTA 05-08 was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on September 26 and October 24, 2005 to review the amendment. After careful review of all materials of record, the Committee recommended that ZTA 05-08 be approved with the following revisions:

- Allow an optional method project of less than 18,000 square feet when recommended in a master or sector plan. It was agreed that the sector plan objective of preserving the existing small-scale retail buildings could be best achieved by not requiring any minimum lot size for an optional method project in the Woodmont Triangle. Under the Committee recommendation, all of the development standards now in place, including public use and amenity space, would still apply to an optional method project of less than 18,000 square feet.
- Change 'Housing Resource Area' to "Density Transfer Area" and eliminate any specific requirement that density transferred must be used for housing. The density transfer concept was determined to have broader policy objectives than increasing housing resources.
- Clarify that a density transfer is measured in terms of gross square feet of development. The ZTA used the terms "density transfer", "development credit", and "transferable development credit" interchangeably, without any clear indication how the development capacity to be transferred was to be measured.
- Allow density to be transferred among the combined lots as approved by the Planning Board; however, the development capacity of the combined lots must not exceed the total development capacity otherwise permitted on the separate lots under the optional method of development procedure or any density limit recommendation in a master or sector plan.

- Allow public use space to be distributed among lots as approved by the Planning Board, or located off-site in the same Density Transfer Area to implement a master or sector plan recommendation. Under current CBD standards, public use space may be provided off-site only in connection with MPDU development.
- Requires that at least the amount of development that could be achieved under the standard method of development be retained for future development. This measure ensures that lots participating in the transfer of density program retain some capacity for future development.

In reaching its recommendations, the Committee reviewed an explanation provided by the Planning Board of how a density transfer would work in practice and the regulations for enforcement, monitoring, and record keeping for a density transfer. The Committee also reviewed the role of the Department of Permitting Services in the density transfer program.

The District Council reviewed Zoning Text Amendment No. 05-08 at worksessions held on November 22, 2005 and January 31, 2006, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 05-08 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-C-6 is amended as follows:

DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.

* * *

59-C-6.23. Development standards.

The development standards applicable to the standard and optional methods of development, indicated by the letters "S" and "O" in each of the zones are set forth in this section.⁸

	CBD-0.5		CBD-R1		CBD-1		CBD-2		CBD-3		CBD-R2	
	S	O	S	O	S	O	S	O	S	O	S	O
59-C-6.231. Minimum Area of Lot (in thousands of square feet):		[22] 18*		[22] 18*		[22] 18*		[22] 18*		[22] 18*		[22] 18*
* * *												

* The minimum lot area for an optional method project may be less than 18,000 square feet, when recommended in a master or sector plan. The minimum lot area [[may be a single lot or]] may consist of more than one lot under the density transfer provisions of Section 59-C-6.2355.

* * *

59-C-6.2355. [[Density Transfer Provisions for properties in an Housing Resource Area that use the Optional Method of Development Procedure]] Special regulations for Optional Method of development projects for more than lot involving a density transfer.

This section includes special [[standards]] regulations for optional method of development projects involving more than one lot located [[in a Housing Resource Area as]] within a Density Transfer Area designated in [[the applicable]] a master or sector plan.

(a) The Planning Board may approve an optional method of development project for more than one lot in the same [[Housing Resource Area]] Density Transfer Area that are not adjacent to each other, but when combined, the lots total a minimum of 18,000 square feet, or less if recommended in a master of sector plan. The optional method of development project must comply with the project plan approval requirements of Section 59-D-2.42(g) and the following [[additional requirements]] provisions:

[(i) The property to which a development credit is transferred must not abut or confront a one-family residential zone.

(ii) Density transferred to any lot smaller than 18,000 square feet must be used to provide for housing development and ancillary retail and arts uses. Density on the smaller lot must be measured in accordance with the maximum density provisions of the optional method of development.

(iii) The density of development for the combined lots must not exceed the total density otherwise permitted on the separate lots. Public use space and amenities must be provided based on the total area of the lots included in the optional method of development project.]]

(i) Density transferred is measured in terms of gross square feet of development.

(ii) The lot that receives a density transfer must not abut or confront a one-family residential zone.

(iii) The development capacity of the combined lots may be transferred among lots as shown on the project plan approved by the Planning Board; however, the development capacity of

the combined lots must not exceed the total development capacity otherwise permitted on the separate lots under the optional method of development procedure or any density limit recommendation in a master or sector plan.

(iv) Public use space must be provided based on the total area of the lots included in the optional method of development project and may be distributed among lots as shown on the project plan approved by the Planning Board, in consideration of any master plan public use space recommendation. Public use space may be located off-site in the same density transfer area if the Planning Board finds that an off-site location implements a master or sector plan recommendation.

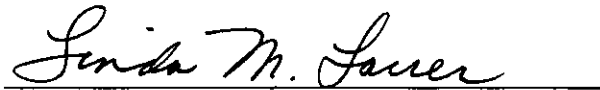
(b) A [[transferable development credit]] density transfer must be established, transferred, and attached to a property only by means of documents, including an easement and appropriate releases, in a recordable form approved by the Planning Board. Any easement must:

- (i) limit future construction of the property that transfers the [[development credit]] density to the amount of gross square feet of the building minus all development [[credits]] transferred;
- (ii) indicate the amount of development [[credit]], in gross square feet to be transferred;
- (iii) indicate the maximum gross square feet of future development for the property that transfers the development credit, but no less than the amount that could be constructed on the property under the standard method of development; and

(iii) be recorded in the land records of Montgomery County.

Sec. 2. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council